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DIRECTOR OF CENTRAL INTELLIGENCE
Security Committee

SECOM-D-007

10 January 198³7

NOTE FOR: Members, DCI Security Committee

25X1 FROM:

[Redacted]

Chairman

SUBJECT: Initiatives to Deal with Leaks

Attached for your review and comment is a draft of recommendations to the DCI concerning leaks based upon our special meeting of 5 January 1983. Your prompt review and comment upon this draft would be most appreciated. As you know, the DCI has asked for our input by the middle of January; therefore, I must hear from you in time to finalize the draft by the end of this week.

25X1 Thank you for your cooperation.

[Redacted]

Attachment

cc: C/UDIS w/att

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DRAFT

SECOM-D-006
7 January 1983

MEMORANDUM FOR: Director of Central Intelligence

VIA: Deputy Director of Central Intelligence
Director, Intelligence Community Staff

FROM:
Chairman

SUBJECT: Initiatives to Deal with Leaks

1. Action Requested: Your review and approval of the attached terms of reference on Community initiatives to deal with the problem of unauthorized disclosures of classified intelligence information.

2. Background: On 22 December 1982, you asked for an early meeting of the Security Committee to address initiatives to combat leaks that would be supported by the Community and to prepare terms of reference to implement them.

3. Current Status: SECOM met on 5 January 1983 in response to your tasking. Initiatives supported by all Community agencies represented on the SECOM are summarized at Tab A. Draft terms of reference to implement the agreed initiatives are at Tab B.

4. Recommendation: That the DCI approve the attached draft terms of reference for initiatives to deal with leaks of intelligence.

Attachments

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SUBJECT: Initiatives to Deal with Leaks

CONCUR:

Director, Intelligence Community Staff

Date

Deputy Director of Central Intelligence

Date

APPROVAL:

Director of Central Intelligence

Date

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SUBJECT: Initiatives to Deal with Leaks

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TAB A

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COMMUNITY-SUPPORTED INITIATIVES ON INTELLIGENCE LEAKS

DCI Security Committee members unanimously support the following initiatives within the Intelligence Community to deal with the problem of unauthorized disclosures (leaks) of intelligence:

1. Continue to seek White House action on the Willard Report.

Current Status: Awaiting White House/NSC action. Judge Clark is believed to have signed off on a National Security Decision Directive substantially similar to that recommended by the Willard Report. The draft is believed to have been sent to Presidential advisors for review prior to submission to the President.

2. Seek enactment of a statute to criminalize unauthorized disclosure of classified information by government personnel.

Current Status: The DCI sent the Director, OMB, a draft bill on this subject for advice on its compatibility with the President's program. The DCI draft bill is identical to the one recommended by the Willard Report.

3. Establish and maintain a DCI leak data base for the Community.

Current Status: Funding is needed for a computerized, Community-wide leak data base which would provide, for the first time, data on the nature and scope of published intelligence leaks. It could be used to analyze leaks for patterns or trends which, if known, would support improvements in security programs and/or better focused investigations. Information on leaks at this time is fragmented and uncoordinated. What exists has little or no utility.

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4. Use specific issue polygraph examinations for leak suspects.

Current Status: The Willard Report recommends that the Office of Personnel Management and other agencies with restrictive policies on use of the polygraph be directed to amend their regulations to permit adverse consequences to follow an employee's refusal to participate in a polygraph examination directed at determining responsibility for unauthorized disclosure. Such examinations would be restricted solely and specifically to questions concerning the leak under investigation.

5. Active participation in screening intelligence leaks for investigation. The DCI should offer Justice the services of SECOM's Unauthorized Disclosures Investigations Subcommittee (UDIS) to assist in screening intelligence leaks to select significant ones most susceptible to investigative resolution.

Current Status: The Willard Report suggests that SECOM involvement in screening leaks would be useful for intelligence matters. The DDCI asked that an earlier recommendation that the DCI offer Justice the services of UDIS be pended until the White House acts on the Willard Report.

6. The DCI should seek legislation to exempt intelligence data from FOIA.

Current Status: Earlier initiatives died with the 97th Congress. Nothing has been done to date to reintroduce this bill to the 98th Congress. Much of the data in The Puzzle Palace is said to have been obtained through FOIA requests.

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7. The DCI should seek periodic reminders from the White House cautioning senior officials about unauthorized comments on intelligence matters.

Current Status: Judge Clark's 8 November 1982 memo (copy attached) to Secretaries of State and Defense, Attorney General, OMB Director, DCI and JCS Chairman is a good example. Occasional similar comments by the President at Cabinet meetings would be helpful.

8. The DCI should encourage Community agencies to publicize penalties meted out to identified leakers as a means of building broad awareness among Government personnel that leaks are damaging to the national security and those committing them will be subject to severe sanctions.

Current Status: Little is being done, perhaps because there is little to publicize. "On the rare occasions that leaking officials are identified, they often escape even administrative sanctions" (Willard Report, p. E-10). Within CIA, penalties meted out to David Sullivan when he was identified as responsible for unauthorized disclosures were publicized in the Washington Post, not in Agency channels.

9. Intelligence Community security components, in consultation with public affairs officials, should study means of informing both government personnel and the general public of the reprehensible nature of leaks of classified intelligence.

Current Status: Media representatives openly boast of publishing classified materials given to them by government officials. The government, for its part, shrinks from action on

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the ground that admissions of the authenticity of the material are even more damaging. The failure of such flagrant violations of security to generate a sense of outrage is symptomatic of general apathy and lack of understanding of the consequences of these disclosures. Recent successes in mobilizing opinion to oppose the transfer abroad of sensitive technology and, on a broader scale, drunken driving, indicate that there is some hope that people can be inspired to condemn willful disclosure of national security information.

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There are other initiatives which could be taken to help deal with leaks, but they are not supported by all SECOM members. These include:

1. Giving the FBI the primary responsibility for investigating leaks. Though supported by the Willard Report, this proposal meets objections from some departments as an infringement on departmental prerogatives and as use of FBI resources on matters of relatively low priority.
2. Regulating press contacts - Also supported by the Willard Report, this proposal is viewed by some as too difficult to enforce and as not worth the media and political controversy it would engender.

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TAB B

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TERMS OF REFERENCE
INTELLIGENCE LEAK INITIATIVES

PURPOSE:

1. This effort, undertaken at the request of the Director of Central Intelligence, identifies initiatives supported by the DCI Security Committee to reduce the incidence of unauthorized disclosures of classified intelligence and information pertaining to intelligence sources or methods.

BACKGROUND:

2. Unauthorized disclosure of classified intelligence ("leaks") is part of the larger and perennial problem of leaks of classified information that has plagued every Administration since at least the nineteen-fifties. In 1959, the incidence of intelligence leaks prompted formation of the DCI Security Committee to seek solutions. Leaks have evaded solution and have become an increasingly troublesome problem. There is ambivalence about them at senior levels. On one hand, leaks are condemned because they foreclose policy options and/or jeopardize national security. On the other hand, well-placed leaks can be used to advance a parochial interest, or discredit the programs and policies of a political or bureaucratic competitor.

3. A penetrating study of the leak problem was done in the spring of 1982 by an interagency group convened by the Attorney General at the request of the Assistant to the President for National Security Affairs. This study, the Willard Report, was sent to the President by the Attorney General. It was endorsed by the DCI, who has consistently sought White House approval of the report's recommendations.

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SCOPE:

4. Practicable initiatives to deal with leaks divide into legislative proposals and administrative measures. None of them can be implemented meaningfully without building and maintaining a supportive climate as was done successfully in promoting the need for a program to halt the transfer abroad of sensitive U. S. technology. A key factor in an effort to popularize opposition to leaks is to be able to show that they significantly harm the national security. This will require retrospective damage assessments of at least some leaks to show harmful results, such as lost or diminished collection capabilities, diplomatic damage, narrowed or lost policy options, etc. A separate and distinct effort will be necessary - damage assessments are usually done so soon after leaks that damage can only be broadly hypothecated. The SECOM Chairman has asked the CIA and NSA members of the Committee to conduct such retrospective damage assessments in-house for certain categories of HUMINT and SIGINT leaks respectively. DCI encouragement of this effort would help overcome the natural reluctance of agencies to share sensitive data with others, even under stringent security constraints. If information developed from this effort can be sanitized, it can then be used to help build broad understanding by non-intelligence personnel that leakers are self-serving persons with little regard for the national interest. They are not in the same category as whistleblowers, who call attention to fraud and corruption. It is essential that this distinction be clearly drawn, as the media have worked hard to make the two synonymous. So long as leakers are portrayed by the media as patriotic, and columnists can boast in print about the classified documents

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they are disclosing without any adverse reaction from the public or the government, there is little hope for progress in stopping the hemorrhaging of classified intelligence.

5. National policy support is essential to any meaningful action to constrain leaks. White House approval of the Willard Report would contribute substantially to this supportive effort. SECOM members unanimously support further DCI requests to the White House for favorable action on this report.

6. The Willard Report recommends Administration support for new legislation to criminalize leaks by Government personnel. The DCI has submitted to OMB for political clearance a bill to do that. This initiative should be pursued vigorously. Enactment of this bill would provide: a broadly understood reason for fearing the consequences of a deliberate leak (government officials are generally aware that no one has been successfully prosecuted under current laws for leaking); and a means to try and convict willful leakers without having to disclose even more classified information to prove damage. It would also permit the FBI to be brought in early to investigate leaks as criminal offenses, thereby obviating departmental objections to outside investigators intruding on leak inquiries now seen as administrative matters.

7. Amendment of the Freedom of Information Act (FOIA) to exempt intelligence from disclosure would indirectly aid efforts against leaks. Such an exemption would help establish and maintain a climate of broad recognition that intelligence information is to be kept within official channels only. Consideration should be given to asking OMB for political clearance for a bill to be introduced to the 98th Congress to amend the FOIA.

8. Since Congressional action on the two items described above is likely to take a significant amount of time, and could result in failure to approve

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the bills, early action should be taken on administrative measures that can be implemented within the Intelligence Community without new legislation. The first of these would be for the DCI to offer the Attorney General the services of SECOM's Unauthorized Disclosures Investigations Subcommittee (UDIS) to assist Justice in screening intelligence leaks to select those which are both significant and susceptible to resolution by FBI investigation. While this arrangement is suggested in the Willard Report, the offer of UDIS services is not dependent on White House action on that report. Justice now screens all requests for FBI investigation of leaks based on the experience and understanding of officials of Justice's Criminal Division. Presumably, they would continue to screen such requests whether or not the Willard Report is approved and implemented. From the Community's perspective, such screening would be more effective if knowledgeable Community personnel (i.e., UDIS members) were advising the Justice Department.

9. Our inability, on a Community basis, to quantify the leak problem or accurately define its nature is a factor that has hindered past attempts to deal effectively with leaks. Establishment and maintenance of a computerized, Community-wide, intelligence leak data base would provide, for the first time, a capability to identify patterns and trends and focus special attention where it is needed. It could assist in the management of investigative efforts and enhance the possibility of successful investigation. Such a data base would be an appropriate service of common concern operated under the authority of the DCI. It would be similar in concept to the centralized Community SCI access register (4C System) which CIA expects to bring on-line in the spring of 1983. Like the 4C System, it would restrict access to stored information to the contributor and the data base manager, removing the objection that

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everyone would be able to see everyone else's leak records. No resources are currently budgeted or programmed for the leak data base.

10. Senior officials need periodic reminders that they should not comment on intelligence matters when they deal with the press or make public addresses. Judge Clark's 8 November 1982 memorandum advising of the President's policy prohibiting comment on intelligence matters was a particularly helpful example. The DCI should seek additional reminders from the White House at least semi-annually. Their impact would be heightened if they could cite, in sanitized form, one or more current cases of indiscreet statements which harmed the intelligence process or intelligence sources or methods.

11. Two other items supported by SECOM members do not lend themselves to action at this time. One of them, a Willard Report recommendation that specific issue polygraph examinations be given to Government personnel who have been specifically identified by investigation as likely suspects, is dependent in part on White House action on the Willard Report. (Defense, CIA and Justice now use the polygraph to varying degrees in such cases.) The other -- publicizing penalties for identified leakers -- depends upon identifying and taking action against leakers, and making this fate known, in depersonalized terms, as an example to others. Unless other recommendations in this paper and the Willard Report are acted upon vigorously, it is unlikely that leakers will be identified.